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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,595	06/27/2000	Paul A. Underbrink	ST97001CI2 (209-US-CIP2)	5340
34408 7590 04/12/2007 THE ECLIPSE GROUP 10605 BALBOA BLVD., SUITE 300 GRANADA HILLS, CA 91344			EXAMINER ODOM, CURTIS B	
			ART UNIT	PAPER NUMBER
			2611	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/604,595	<b>Applicant(s)</b> UNDERBRINK ET AL.	
	<b>Examiner</b> Curtis B. Odom	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,6,8,10,16,18,20-22,25,26,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21,22,33 and 34 is/are allowed.
- 6) ☒ Claim(s) 6,8,10,25 and 26 is/are rejected.
- 7) ☒ Claim(s) 1,3,16,18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments/Amendments***

1. The amendments/arguments filed with the RCE on 3/20/2007 overcome the prior art rejection (102 and 103) in Office Action dated 9/15/2006.

### ***Claim Objections***

2. Claims 1, 3, 8, 10, 16, 18 and 20 are objected to because of the following informalities:

a. In claim 1, the phrase “where the selected portion of one of the plurality of signal samples is selected by an odd-even switch and is either an even portion of an odd portion of the selected portion of the second of the plurality of signal samples” is suggested to be changed to “where the selected portion of one of the plurality of signal samples is provided to an odd-even switch and is either an even portion of an odd portion of the selected portion of the plurality of signal samples”.

b. In claim 1, the phrase “where the selected portion of the second of the plurality of signal samples is selected by an odd-even switch and is either an even portion of an odd portion of the selected portion of the second of the plurality of signal samples” is suggested to be changed to “where the selected portion of the second of the plurality of signal samples is provided to an odd-even switch and is either an even portion of an odd portion of the selected portion of the plurality of signal samples”.

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c. In claim 3, the phrase “the selected portion is of the third signal sample is selected with an second odd-even switch and is either a even portion or a second odd portion of third signal sample” is suggested to be changed to “the selected portion of the third signal sample is provided to an second odd-even switch and is either an even portion or an odd portion of third signal sample”.

d. In claim 3, the phrase “fourth signal samples” is suggested to be changed to “fourth signal sample”.

e. In claim 3, the phrase “the selected portion is of the forth signal sample is selected with the second odd-even switch and is either an even portion or an odd portion of the fourth signal sample” is suggested to be changed to “the selected portion of the fourth signal sample is provided to the second odd-even switch and is either an even portion or an odd portion of the fourth signal sample”.

f. In claim 8, the phrase “with a second from the plurality of PN code chips” is suggested to be changed to “with a second PN code chip from the plurality of PN code chips”.

g. In claim 10, the phrase “the second PN code chip” is suggested to be changed to “a second PN code chip”.

h. In claim 10, page 7, the phrase “the second PN chip stage” (see line 2) is suggested to be deleted.

g. In claim 16, the phrase “the selected even PN code state” is suggested to be changed to “the selected even PN code stage”.

h. In claim 18, the phrase “a second of the plurality of PN code chips” is suggested to be changed to “a second PN code chip of the plurality of PN code chips”.

i. In claim 20, page 9, line 2, the phrase “the second PN code chip” is suggested to be changed to “a second PN code chip”.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 6, 8, 10, 25, and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The above claims recite limitations such as “selecting”, “multiplying”, and “adding”. The claims simply recite mathematical operations which manipulate an abstract idea (signal) without reciting a practical application within the body of the claim. MPEP 2106.02 [R-5] states:

**\*\*>Claims to processes that do nothing more than solve mathematical problems or manipulate abstract ideas or concepts are complex to analyze and are addressed herein. If the “acts” of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter. *Gottschalk v. Benson*, 409 U.S. 63, 71 - 72, 175 USPQ 673, 676 (1972). Thus, a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process.**

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**In practical terms, claims define nonstatutory processes if they:**

**– consist solely of mathematical operations without some claimed practical application**

**(i.e., executing a “mathematical algorithm”); or**

**– simply manipulate abstract ideas, e.g., a bid (Schrader, 22 F.3d at 293-94, 30**

**USPQ2d at 1458-59) or a bubble hierarchy (Warmerdam, 33 F.3d at 1360, 31**

**USPQ2d at 1759), without some claimed practical application.**

Thus based on the above disclosure in the MPEP, it is the understanding of the Examiner that claims 6, 8, 10, 25, and 26 recite non-statutory subject matter.

#### ***Allowable Subject Matter***

5. Claims 1, 3, 6, 8, 10, 16, 18, 20-22, 25, 26, 33, and 34 are allowable over prior art references if above objections and 101 rejections are overcome.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis B. Odom whose telephone number is 571-272-3046. The examiner can normally be reached on Monday- Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Curtis Odom', is written over a horizontal line.

Curtis Odom  
April 10, 2007